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Bradley N. Ruben, PC  
463 First Street, Suite 5A  
Hoboken, NJ 07030-1859

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**OFFICE OF PETITIONS**

In re Patent No. 6,972,097  
Issue Date : December 6, 2005  
Application No. 10/660,875  
Filed: September 12, 2003  
Attorney Docket No. 114GI-104B

:  
: **DECISION DISMISSING PETITION**  
: **UNDER 37 CFR 1.78(a)(3)**  
:  
:

This is a decision on the renewed petition under 37 CFR 1.78(a)(3), filed November 14, 2005, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional Applications, No. 09/374,860, filed August 16, 1999, and No. 09/066,382, filed April 29, 1998.

The petition is **dismissed**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

- (1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
- (2) the surcharge set forth in § 1.17(t); and
- (3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

The instant nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the prior-filed nonprovisional applications is submitted after expiration of the period specified in 37 CFR 1.78(a)(2)(ii). Therefore, this is a proper petition under 37 CFR 1.78(a)(3).

In view of the issuance of this application into Patent No. 6,972,097, on December 6, 2005, a completed Certificate of Correction and the \$100.00 fee are required as a condition for acceptance of the instant petition under 37 CFR 1.76(a)(3).

Therefore, petitioner must submit a renewed petition under 37 CFR 1.78(a)(3), accompanied by a completed Certificate of Correction (with the \$100.00 fee), which includes the benefit claim to the prior-filed nonprovisional Applications, No. 09/374,860, filed August 16, 1999, and No. 09/066,382, filed April 29, 1998.

Further correspondence with respect to this matter should be addressed as follows:

By mail:                   Mail Stop Petition  
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Any questions concerning this matter may be directed to Senior Petitions Attorney Christina Tartera Donnell at (571) 272-3211.



Frances Hicks  
Lead Paralegal  
Office of Petitions  
Office of the Deputy Commission  
for Patent Examination Policy